whose ground floor area is not very much smaller, which is much nearer the applicant's building and was renovated and modernized in 1955. The Hongkong Bank, on the other hand, had not been renovated on the material date. In my opinion the applicant's valuer was wrong in not taking into account several other recently modernized banks which are admittedly nearer the Hongkong Bank, even though their ground floor areas are considerably smaller. He is right in suggesting that in the case of smaller banks the rates would be higher, but he was wrong in totally disregarding them. I cannot accept his contention that Old Market Square is today the banking centre of Kuala Lumpur.

In my opinion the respondent's expert adopted the right method of approach in comparing the applicant's premises with the premises of other banks in Mountbatten Road itself. His contention that Mountbatten Road is one of the main arteries of Kuala Lumpur is unassailable, and there is no doubt that the applicant's bank is in a commanding position. To my mind the most suitable comparison of the applicant's bank is with the Mercantile Bank, now temporarily occupied by the Hongkong Bank, at the other end of a row of houses in Mountbatten Road. Both are corner buildings and, therefore, are well situated from the point of view of any prospective tenant. The Mercantile Bank at the other corner is admittedly a smaller bank with a ground floor area of only 1,164 square feet as opposed to the ground floor area of 5,067 square feet of the applicant's bank, but it is valued at $1.25 per square foot with no allowance for multiple lettings as opposed to the value of 85 cents per square foot of the applicant's bank with a 10% allowance for multiple lettings. There is, thus, a difference of nearly 50 cents per square foot in the valuation of the two banks. I am prepared to concede that the Eastern Bank which is not far from the applicant's bank should be taken into consideration. Indeed, in considering this appeal, the only thing that has troubled me is the valuation of the Eastern Bank at 70 cents per square foot with a 5% allowance for multiple lettings, but I am satisfied that, taking the entire floor space of the two bank buildings, the average valuation per square foot per annum of the Eastern Bank is in fact higher than the average valuation per square foot per annum of the applicant's bank. This is not surprising because the Eastern Bank building was bought with vacant possession whereas the applicant's bank was bought with vacant possession of the ground and first floors only.

Taking into consideration the whole of the evidence in this appeal, I am satisfied that the respondent's valuer applied the only test which could be suitably applied in this case, by equitable comparison of the applicant's bank with similar properties in similar occupation, with the necessary and appropriate adjustments. He allowed for all differences in character and position of the neighbouring premises, and he was quite right in taking into account the prominence of the site of the applicant's bank. It cannot be said that his valuation has been made otherwise than in accordance with recognised principles. In the circumstances I am in no position to say that he acted on the wrong basis. The appeal therefore is dismissed with costs.

Appeal dismissed.

Solicitors:—*Shook Lin & Bok; Shearn, Delamore & Co.*

SHAIK ALI v. SHAIK MOHAMED

[C.A. (Hill and Barakbah JJ.A., Ismail Khan J.) May 21, 1963]

[K.L. — F.M. Civil Application No. 1 of 1963]

Costs—Security for costs—Applicant resident out of jurisdiction—Whether stringent currency restrictions should be taken into account—Exercise of discretion.

The applicant asked the court to set aside an order requiring him to furnish security for costs made by the court in 1960 on the ground that owing to stringent currency restrictions in India such an order would result in further delay as it would inevitably take time to arrange for the transfer of money to this country. The respondent asked that the applicant should give security for costs before his application was dealt with on the ground that the applicant was resident in India and that he had no property or assets in Malaya. The respondent also affirmed in his affidavit that judgments of Malayan courts have not been satisfied, nor had an order for security of costs been complied with and he asked the court to take these circumstances into consideration.

Held: as the applicant is out of the jurisdiction and in view of the past history of the litigation, the court should require the applicant to give security for costs.

COURT OF APPEAL.

K. A. Menon for the applicant.

D. L. L. Pickard for the respondent.

Hill J.A. (delivering oral judgment) We considered this matter yesterday and I will now briefly state my views without attempting to go into the merits. At this stage they are not in issue.

The applicant is asking the court to reconsider some long standing litigation, which commenced in the early 1950s, and has now crossed the Indian Ocean to the High Court of India. He asks the court to make an order that an order made by this court in February 1960 be set aside.

The respondent asks that the applicant

should give security for costs before his application is dealt with on the ground that the applicant is resident in India, where he has in fact been for some years, and that he has no property or assets in Malaya. The respondent has also affirmed in his affidavit that judgments of Malayan courts have not been satisfied, nor has an order for security of costs been complied with and he has asked the court to take these circumstances into consideration. I think it is proper that we do so.

It was urged on behalf of the applicant that owing to stringent currency restrictions in India any order requiring him to furnish security for costs would result in further delay as it would inevitably take time to arrange for the transfer of money to this country.

It is quite clear that the court has a discretion in the matter. It is also clear that in the case of a plaintiff, and the applicant should be treated as a plaintiff in the present circumstances, who is out of the jurisdiction and who has no property or assets in the country, that the discretion seems to be invariably exercised in favour of making an order for security for costs.

In my view as the applicant is out of the jurisdiction and in view of the past history of the litigation, the court should require the applicant to give security for costs. Previously security in the sum of $1,000 was ordered and that is the figure that I would now fix. The proceedings should be stayed until the order is complied with. The respondent should have his costs, agreed at $250.

Order accordingly.

Solicitors:—*Braddell & Ramani; Donaldson & Burkinshaw.*

HAJI AWANG v. IBRAHIM & ORS.

[A.C.J. (Suffian J.) June 29, 1963]

[Alor Star — Kedah Civil Appeal No. 15 of 1962]

Padi Cultivators (Control of Rent and Security of Tenure) Ordinance, 1955, ss.7, 11, 16—Padi Committee making order for possession against proprietor—Person in possession not party to proceedings—Proprietor convicted under s.16—Respondents applying to Sessions Court for possession—Whether abuse of process of Court.

The appellant was the registered proprietor of the bendang land in question and the respondents were his tenants. A dispute between the parties was brought before a Padi Committee constituted under the Padi Cultivators (Control of Rent and Security of Tenure) Ordinance 1955 and the Committee ordered that the respondents should give up possession of the bendang land on condition that the appellant work it himself for three years. Subsequently as the appellant did not work the bendang land himself the Committee ordered that the respondents be restored into possession of the land. The respondents were unable to obtain possession of the land despite the order of the Committee because one M.S. who worked the land was in possession. The appellant was then duly charged and convicted under section 16(2) of the said Ordinance but the respondents still could not obtain possession. The respondents then commenced proceedings in the Sessions Court praying *inter alia* for an order that the appellant deliver and surrender the land to them. The learned President granted the order and the appellant appealed.

Held: (1) the respondents can in addition to invoking the provisions of section 16(2) of the said Ordinance apply to the Committee for a further order to give effect to its previous orders. The Committee has power to revise its order under section 7(2) and make an order addressed jointly to the appellant and M.S. restoring the respondents into possession;

(2) the civil action brought in the Sessions Court to enforce the Committee's order was an abuse of the process of that court. The learned President should have dismissed the action leaving the respondents to return to the Committee for further orders.

CIVIL APPEAL.

A. Jayadeva for the appellant.

Cur. Adv. Vult.

Suffian J.: This appeal turns on the question whether a Padi Committee constituted under section 6 of the Padi Cultivators (Control of Rent and Security of Tenure) Ordinance No. 9 of 1955 can do anything to enforce their own order.

The facts are as follows. The defendant, the appellant here, is the registered proprietor of the bendang land in question. The three plaintiffs, the respondents here, were his tenants. There was a dispute between them as regards the tenancy. The dispute was brought in cases Nos. 27, 28 and 29 of 1960 before the Padi Committee.

The Committee ordered that the three plaintiffs should give up possession of the bendang land to the defendant on condition that the defendant work it himself for three years. The Committee had power to so order because the defendant desired to cultivate the land himself, paragraph (e) of section 11, but they failed to make the defendant execute a bond as required by the first proviso to that paragraph.

Subsequently the plaintiffs brought the defendant back before the Committee in case No. 100 of 1961. The Committee found that the bendang was being worked not by the defendant himself, but by another person named Mat Saman. On the 20th July 1961 the Committee ordered that the plaintiffs be restored into possession of the bendang. The Committee had power to make this order under the second proviso to paragraph (e) of section 11, but the order was made against the defendant alone and not